

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.804 OF 1998

The Commissioner of Income-tax,
Nasik .. Applicant.

V/s.

Sudhir T. Deshpande, Aurangabad .. Respondent.

Mr.A.S. Rao i/b. Mr.Pankaj Kapoor for the applicant.

**CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.**

DATED : 5TH APRIL, 2005.

P.C. :

1. In this reference, the questions referred for the opinion of this Court reads as under :

1. Whether on the facts and in the circumstances of the case, the Tribunal is right in law in holding that the amount of Rs.19,000/- (AY.1982-83) Rs.14,650/- (AY 1983-84) being the subsidy received by the assessee is a capital receipt and is not deductible in computing the actual cost to the assessee for the purposes of depreciation inspite of the specific provision of sec.43(1) of the I.T. Act ?

2. Whether on the facts and circumstances of the case, the Tribunal is right in law in holding that the WDV of assets, be taken for the purpose of depreciation allowance, at figure, without deducting the amount of subsidy received by the assessee during the A.Y. 1982-83 and 1983-84 ?

2. So far as the first question is concerned, the same has been answered by the Apex Court in the

case of **C.I.T. V/s. P.J. Chemicals Ltd. [(1994) 210 I.T.R. 830 (S.C.)]** in favour of the assessee and against the revenue. Whereas, the second question has been answered by the Division Bench of this Court in the case of **C.I.T. V/s. Menezes Farmaco [(1999) 236 I.T.R. 780 (Bom.)]** in favour of the assessee and against the revenue.

3. In the above view of the matter, both the questions are answered in the affirmative i.e. in favour of the assessee and against the revenue. Accordingly, reference stands disposed of with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)